

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

*In Re: American Medical Systems, Inc., Pelvic Repair System
Products Liability Litigation
MDL No. 2325*

Civil Action No. 2:13-cv-2240

SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The First Amended Master Complaint in MDL No. 2325 by reference.

Plaintiff(s) further show the court as follows:

1. Female Plaintiff

Kristin Metzel

2. Plaintiff Spouse

Robert Metzel

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)

4. State of Residence

Indiana

5. District Court and Division in which venue would be proper absent direct

filing NORTHERN DISTRICT OF CA - Location of the Manufacturer

SOUTHERN DISTRICT OF IN - Domicile of the Plaintiff

6. Defendants (Check Defendants against whom Complaint is made):

- ☒ A. American Medical Systems, Inc. ("AMS")
☒ B. American Medical Systems Holdings, Inc. ("AMS Holdings")

- ☒ C. Endo Pharmaceuticals, Inc.
- ☒ D. Endo Health Solutions Inc. (f/k/a Endo Pharmaceuticals Holdings, Inc.)
- ☒ E. Ethicon, Inc.
- ☒ F. Ethicon, LLC
- ☒ G. Johnson & Johnson
- ☐ H. Boston Scientific Corporation
- ☒ I. C. R. Bard, Inc. ("Bard")
- ☒ J. Sofradim Production SAS ("Sofradim")
- ☒ K. Tissue Science Laboratories Limited ("TSL")
- ☐ L. Analytic Biosurgical Solutions ("ABISS")
- ☐ M. Mentor Worldwide LLC
- ☐ N. Coloplast A/S
- ☐ O. Coloplast Corp.
- ☐ P. Coloplast Manufacturing US, LLC
- ☐ Q. Porges S.A.

7. Basis of Jurisdiction

☒ Diversity of Citizenship

☐ Other:

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

B. Other allegations of jurisdiction and venue

THE DEFENDANT SYSTEMATICALLY AND CONTINUALLY CONDUCTS

BUSINESS IN THE NORTHERN DISTRICT OF CALIFORNIA AS IT HAS A

MANUFACTURING PLANT LOCATED IN SAN JOSE, CALIFORNIA.

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff)

- ☐ A. Apogee;
- ☐ B. Perigee;
- ☐ C. MiniArc Sling;
- ☐ D. Monarc Subfascial Hammock;
- ☐ E. SPARC;
- ☐ F. In-Fast;
- ☐ G. BioArc;
- ☒ H. Elevate;
- ☐ I. Straight-In;
- ☒ J. Other

Gynecare TVT Exact

Bard Pelvisoft

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products)

- ☐ A. Apogee;
- ☐ B. Perigee;
- ☐ C. MiniArc Sling;
- ☐ D. Monarc Subfascial Hammock;
- ☐ E. SPARC;

- ☐ F. In-Fast;
- ☐ G. BioArc;
- ☒ H. Elevate;
- ☐ I. Straight-In;
- ☒ J. Other;

Gynecare TVT Exact

Bard Pelvisoft

10. Date of Implantation as to Each Product

February 22, 2011

11. Hospital(s) where Plaintiff was implanted (including City and State)

St. Vincent Hospitals and Health Services

Indianapolis, IN

12. Implanting Surgeon(s)

Madalyn Squires, MD

13. Counts in the Master Complaint brought by Plaintiff(s)

- ☒ Count I - Negligence
- ☒ Count II – Strict Liability – Design Defect
- ☒ Count III – Strict Liability – Manufacturing Defect
- ☒ Count IV – Strict Liability – Failure to Warn
- ☐ Count V - Strict Liability – Defective Product
- ☒ Count VI - Breach of Express Warranty
- ☒ Count VII – Breach of Implied Warranty

- ☒ Count VIII – Fraudulent Concealment
- ☒ Count IX – Constructive Fraud
- ☒ Count X - Discovery Rule, Tolling and Fraudulent Concealment
- ☒ Count XI – Negligent Misrepresentation
- ☒ Count XII – Negligent Infliction of Emotional Distress
- ☒ Count XIII – Violation of Consumer Protection Laws
- ☒ Count XIV – Gross Negligence
- ☒ Count XV - Unjust Enrichment
- ☒ Count XVI - (By the Spouse) – Loss of Consortium
- ☒ Count XVII – Punitive Damages
- ☐ Other (please state the facts supporting this Count in the space, immediately below)
- ☐ Other (please state the facts supporting this Count in the space, immediately below)

Address and bar information:

Motley Rice LLC
321 South Main Street
Providence, RI 02903
Phone (401) 457-7700
FThompson@motleyrice.com
DMigliori@motleyrice.com
FFitzpatrick@motleyrice.com
JOrent@motleyrice.com

/s/Fidelma Fitzpatrick, Esq.

Attorneys for Plaintiff

Fred Thompson, Esq.

Donald Migliori, Esq.

Jonathan D. Orent, Esq.